

SENATE BILL No. 353

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-28-6-4; IC 6-1.1-12-29; IC 6-2.3; IC 6-3.1; IC 6-6-1.1-103.

Synopsis: Alternative fuel use and production. Requires the economic development corporation to work with: (1) automobile manufacturers to improve awareness and labeling; and (2) companies to include E85 stations in updates of global positioning navigation software. Provides a property tax deduction for organic waste biomass conversion units. Provides a tax credit for the purchase of electricity generated from an organic waste biomass conversion unit. Increases the maximum amount of credits that may be granted for biodiesel production, biodiesel blending, and ethanol production. Extends the tax credit for the retail sale of blended biodiesel to 2010, and eliminates the cap on the maximum amount of credits that may be given. Grants a credit for installing or retrofitting a fueling station to dispense B20 blended biodiesel or E85 base fuel. Specifies that the definition of gasoline includes ethanol based fuel, including E85 base fuel.

Effective: January 1, 2005 (retroactive); January 1, 2006 (retroactive); March 1, 2006 (retroactive).

**Weatherwax, Hershman, Gard,
Jackman, Waterman, Drozda,
Young R, Hume**

January 10, 2006, read first time and referred to Committee on Tax and Fiscal Policy.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 353

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-28-6-4 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 4. The corporation shall**
4 **work with automobile manufacturers to improve awareness and**
5 **labeling of E85 base fuel and shall work with the appropriate**
6 **companies to include E85 base fuel stations in updates of global**
7 **positioning navigation software.**

8 SECTION 2. IC 6-1.1-12-29 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE MARCH 1, 2006 (RETROACTIVE)]: Sec.
10 29. (a) As used in this section, "organic waste biomass conversion
11 unit" means tangible property:

- 12 (1) not owned by a person primarily engaged in the
13 generation or retail sale of electricity, gas, or thermal energy;
14 (2) reported to the Indiana utility regulatory commission
15 before construction begins, as required under IC 8-1-8.5-7;
16 and
17 (3) directly used to produce electricity of eighty (80)

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megawatts capacity or less from agricultural livestock waste nutrients (as defined in 26 U.S.C. 45) or other agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop byproducts or residues.

The term includes metering devices, relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus designated for safe, efficient, and reliable interconnection to an electric utility's system. The term does not include tangible property that uses fossil fuel that exceeds the minimum amount of fossil fuel required for any necessary startup and flame stabilization or municipal solid waste.

(a) (b) For purposes of this section, "wind power device" means a device, such as a windmill or a wind turbine, that is designed to utilize the kinetic energy of moving air to provide mechanical energy or to produce electricity.

(b) (c) The owner of real property, or a mobile home that is not assessed as real property, that is equipped with a:

(1) wind power device; or

(2) organic waste biomass conversion unit;

is entitled to an annual property tax deduction.

(d) The amount of the deduction equals the remainder of:

(1) the assessed value of the real property or mobile home with the ~~wind power device~~ **tangible property described in subsection (c)(1) and (c)(2)** included; minus

(2) the assessed value of the real property or mobile home without the ~~wind power device~~ **tangible property described in subsection (c)(1) and (c)(2)**.

SECTION 3. IC 6-2.3-1-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 2.4. "Commission" refers to the Indiana utility regulatory commission.**

SECTION 4. IC 6-2.3-1-5.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 5.8. "Organic waste biomass conversion unit" has the meaning set forth in IC 6-1.1-12-29.**

SECTION 5. IC 6-2.3-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]:

Chapter 5.5 Credits

Sec. 1. A taxpayer is entitled to the credits against the taxpayer's tax liability provided by this chapter.

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1 **Sec. 2. (a) If the amount of a credit granted under this chapter**
 2 **for a taxpayer in a taxable year exceeds the taxpayer's tax liability**
 3 **for that taxable year, the taxpayer may carry the excess over to not**
 4 **more than three (3) subsequent taxable years. The amount of the**
 5 **credit carryover from a taxable year shall be reduced to the extent**
 6 **that the carryover is used by the taxpayer to obtain a credit under**
 7 **this chapter for any subsequent taxable year.**

8 **(b) A taxpayer is not entitled to a carryback or refund of an**
 9 **unused credit.**

10 **Sec. 3. To apply a credit granted under this chapter against the**
 11 **taxpayer's tax liability, a taxpayer must claim the credit on the**
 12 **taxpayer's tax return or returns in the manner prescribed by the**
 13 **department. A taxpayer claiming a credit shall submit to the**
 14 **department any additional information that the department**
 15 **determines is necessary for the department to determine whether**
 16 **the taxpayer is eligible for the state credit.**

17 **Sec. 4. The amount of a credit granted under this chapter shall**
 18 **be disregarded by the commission in determining a taxpayer's**
 19 **rates.**

20 **Sec. 5. (a) A taxpayer that purchases electricity for resale at**
 21 **retail from an individual or entity that:**

- 22 (1) operates an organic waste biomass conversion unit; and
 23 (2) generates the electricity from the organic waste biomass
 24 conversion unit;

25 **is entitled to a credit against the taxpayer's tax liability in the**
 26 **taxable year when the electricity is received.**

27 **(b) The amount of the credit is equal to the additional cost**
 28 **incurred by the taxpayer to purchase the electricity for all rating**
 29 **periods in the taxpayer's taxable year. The additional cost of**
 30 **electricity for a particular rating period is the amount determined**
 31 **under STEP SIX of the following formula:**

32 **STEP ONE: Determine the rate per kilowatt hour that a**
 33 **taxpayer would be obligated to pay for the electricity under**
 34 **170 IAC 4-4.1-9 (as effective January 1, 2006), as applied**
 35 **without:**

- 36 (A) regard to whether the taxpayer is an electric utility (as
 37 defined 170 IAC 4-4.1-1 (as effective January 1, 2006); and
 38 (B) any changes resulting from the negotiation of a
 39 different rate between the taxpayer and the electric power
 40 producer.

41 **STEP TWO: Determine fifty percent (50%) of the average**
 42 **retail rate at which the taxpayer sells a kilowatt hour of**

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electricity to residential customers (or all customers if the taxpayer does not sell electricity at retail to residential customers) during the same rating period.

STEP THREE: Determine the greater of zero (0) or the difference determined by subtracting the STEP ONE amount from the STEP TWO amount.

STEP FOUR: Determine the greater of zero (0) or the difference determined by subtracting the STEP ONE amount from the rate per kilowatt hour that the taxpayer paid for the electricity.

STEP FIVE: Determine the lesser of the STEP THREE amount or the STEP FOUR amount.

STEP SIX: Determine the greater of zero (0) or the product determined by multiplying the STEP FIVE amount times the number of kilowatt hours purchased by the taxpayer during the rating period.

SECTION 6. IC 6-3.1-27-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 0.5.** As used in this chapter, "B20 blended biodiesel" means blended biodiesel with a biodiesel (B100) content of at least twenty percent (20%) by volume.

SECTION 7. IC 6-3.1-27-9.5, AS ADDED BY P.L.191-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: **Sec. 9.5. (a)** The total amount of credits allowed under:

- (1) section 8 of this chapter;
- (2) section 9 of this chapter; and
- (3) IC 6-3.1-28;

may not exceed ~~twenty~~ **twenty five** million dollars ~~(\$20,000,000)~~ **(\$50,000,000)** for all taxpayers and all taxable years **beginning after December 31, 2004**. The corporation shall determine the maximum allowable amount for each type of credit, which must be at least four million dollars (\$4,000,000) for each **type of** credit.

(b) The total amount of credits allowed under section 9.7 of this chapter and IC 6-3.1-28-7.5 for all taxpayers and all taxable years may not exceed five million dollars (\$5,000,000).

SECTION 8. IC 6-3.1-27-9.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 9.7. (a)** The following definitions apply throughout this section:

- (1) "Fueling station" means any tangible property (other than

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a building and its structural components):

(A) of a character that permits expenditures to acquire or improve the tangible property to be depreciated for federal income tax purposes under the Internal Revenue Code; and

(B) that is for the storage or dispensing of B20 blended biodiesel directly into the fuel tank of a motor vehicle propelled by the fuel;

but only if the storage or dispensing of the fuel is at the point where the fuel is delivered into the fuel tank of the motor vehicle.

(2) "Location" refers to one (1) or more parcels of land that:

(A) have a common access to a public highway; and

(B) are or would appear to the reasonable person making an observation from a public highway to be part of the same business.

(3) "Motor vehicle" means any vehicle that:

(A) is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails); and

(B) has at least four (4) wheels.

(4) "Qualified investment" refers to an ordinary and usual expense (less the sum of any federal or state grant that is awarded for any part of the qualified investment and any federal or state tax credit other than the credit granted under this section to which the taxpayer is entitled for any part of the qualified investment) that is incurred after June 30, 2006, to do any of the following:

(A) Purchase any part of a renewable fuel compatible fueling station for the purpose of:

(i) installing a new renewable fuel compatible fuel station at a location; or

(ii) converting a fueling station that is not a renewable fuel compatible fueling station into a fueling station that is a renewable fuel compatible fueling station.

(B) Deliver any part of a renewable fuel compatible fueling station to the location where it will be installed.

(C) Install a new renewable fuel compatible fueling station.

(D) Refit any part of a fueling station that is not renewable fuel compatible as a renewable fuel compatible fueling station, including the costs of cleaning storage tanks and piping to remove petroleum sludge and other

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contaminants.

(5) "Renewable fuel compatible" means:

(A) capable of storing and delivering B20 blended biodiesel without contaminants resulting from deterioration from constant contact with biodiesel; and

(B) in conformity with applicable governmental standards, if any, and other nationally recognized standards applying to storage and handling of B20 blended biodiesel, as determined under the standards prescribed by the corporation.

(b) A taxpayer that, before January 1, 2011:

(1) makes a qualified investment; and

(2) places the qualified investment in service;

in Indiana for the dispensing of B20 blended biodiesel into the fuel tanks of motor vehicles is entitled to a credit against the taxpayer's tax liability in the taxable year in which the qualified investment is placed in service.

(c) The amount of the credit is equal to the lesser of the following:

(1) The amount of the taxpayer's qualified investment.

(2) Ten thousand dollars (\$10,000) for all qualified investments made by all taxpayers in all taxable years at a single location.

(3) The amount of the credit awarded by the corporation.

(d) The corporation shall carry out a program to award credits provided by this section to eligible taxpayers, including pass through entities.

(e) A credit granted under this section does not reduce the basis of the qualified property for the purposes of determining any gain or loss on the property when the taxpayer disposes of the property.

SECTION 9. IC 6-3.1-27-10, AS AMENDED BY P.L.191-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 10. (a) A taxpayer that:

(1) is a dealer; and

(2) distributes at retail blended biodiesel in a taxable year; is entitled to a credit against the taxpayer's state tax liability.

(b) The amount of the credit allowed under this section is the product of:

(1) one cent (\$0.01); multiplied by

(2) the total number of gallons of blended biodiesel distributed at retail by the taxpayer in a taxable year.

(c) The total amount of credits allowed under this section may not

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1 exceed one million dollars (\$1,000,000) for all taxpayers and all
2 taxable years.

3 ~~(d)~~ (c) A credit under this section may not be taken for blended
4 biodiesel distributed at retail after December 31, 2006: **2010.**

5 SECTION 10. IC 6-3.1-27-13, AS AMENDED BY P.L.191-2005,
6 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JANUARY 1, 2006 (RETROACTIVE)]: Sec. 13. To receive the credit
8 provided by this chapter, a taxpayer must do the following:

9 (1) Claim the credit on the taxpayer's state tax return or returns in
10 the manner prescribed by the department.

11 (2) Provide a copy of the certificate of the corporation finding:

12 (A) that the taxpayer; or

13 (B) if the taxpayer is a shareholder, partner, or member of a
14 pass through entity, that the pass through entity;

15 is eligible for the credit under IC 5-28-6-3 **or section 9.7 of this**
16 **chapter, as appropriate.**

17 (3) Submit to the department proof of all information that the
18 department determines is necessary for the calculation of the
19 credit provided by this chapter.

20 The department may require a pass through entity to provide
21 informational reports that the department determines necessary for the
22 department to calculate the percentage of a credit provided by this
23 chapter to which a shareholder, partner, or member of the pass through
24 entity is entitled.

25 SECTION 11. IC 6-3.1-27-14 IS ADDED TO THE INDIANA
26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 14. (a)**
28 **The definitions in section 9.7 of this chapter apply throughout this**
29 **section.**

30 **(b) A taxpayer that received a tax benefit from a credit under**
31 **section 9.7 of this chapter (including a shareholder, partner, or**
32 **member of a pass through entity) is liable for a recapture tax if the**
33 **qualified investment that is the basis for the credit is converted to**
34 **any use, other than to dispense B20 blended biodiesel into the fuel**
35 **tanks of motor vehicles at the location where the qualified**
36 **investment was initially placed in service, within three (3) taxable**
37 **years after the end of the taxable year in which the qualified**
38 **investment was placed in service. The recapture tax equals the**
39 **following:**

40 **(1) Seventy-five percent (75%) of the tax benefit received by**
41 **the taxpayer if the use is converted not later than one (1)**
42 **taxable year after the end of the taxable year in which the**

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qualified investment was placed in service.

(2) Fifty percent (50%) of the tax benefit received by the taxpayer if the use is converted later than one (1) but not later than two (2) taxable years after the end of the taxable year in which the qualified investment was placed in service.

(3) Twenty-five percent (25%) of the tax benefit received by the taxpayer if the use is converted later than two (2) but not later than three (3) taxable years after the end of the taxable year in which the qualified investment was placed in service.

In addition, the department shall disallow any unused credit that the taxpayer has not applied to the taxpayer's tax liability.

(c) A recapture tax under this section shall be treated as a listed tax.

(d) A taxpayer shall report a recapture tax liability in the manner, on the schedule, and in the form prescribed by the department.

SECTION 12. IC 6-3.1-28-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 7.5. (a)**

The following definitions apply throughout this section:

(1) "E85 base fuel" has the meaning set forth in IC 6-6-1.1-103.

(2) "Fueling station" means any tangible property (other than a building and its structural components):

(A) of a character that permits expenditures to acquire or improve the tangible property to be depreciated for federal income tax purposes under the Internal Revenue Code; and

(B) that is for the storage or dispensing of E85 base fuel directly into the fuel tank of a motor vehicle propelled by the fuel;

but only if the storage or dispensing of the fuel is at the point where the fuel is delivered into the fuel tank of the motor vehicle.

(3) "Location" refers to one (1) or more parcels of land that:

(A) have a common access to a public highway; and

(B) are or would appear to the reasonable person making an observation from a public highway to be part of the same business.

(4) "Motor vehicle" means any vehicle that:

(A) is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated

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exclusively on a rail or rails); and

(B) has at least four (4) wheels.

(5) "Qualified investment" refers to an ordinary and usual expense (less the sum of any federal or state grant that is awarded for any part of the qualified investment and any federal or state tax credit other than the credit granted under this section to which the taxpayer is entitled for any part of the qualified investment) that is incurred after June 30, 2006, to do any of the following:

(A) Purchase any part of a renewable fuel compatible fueling station for the purpose of:

(i) installing a new renewable fuel compatible fuel station at a location; or

(ii) converting a fueling station that is not a renewable fuel compatible fueling station into a fueling station that is a renewable fuel compatible fueling station.

(B) Deliver any part of a renewable fuel compatible fueling station to the location where it will be installed.

(C) Install a new renewable fuel compatible fueling station.

(D) Refit any part of a fueling station that is not renewable fuel compatible as a renewable fuel compatible fueling station, including the costs of cleaning storage tanks and piping to remove petroleum sludge and other contaminants.

(6) "Renewable fuel compatible" means:

(A) capable of storing and delivering E85 base fuel without contaminants resulting from deterioration from constant contact with alcohol fuels; and

(B) in conformity with applicable governmental standards, if any, and other nationally recognized standards applying to storage and handling of E85 base fuel, as determined under the standards prescribed by the corporation.

(b) A taxpayer that, before January 1, 2011:

(1) makes a qualified investment; and

(2) places the qualified investment in service;

in Indiana for the dispensing of E85 base fuel into the fuel tanks of motor vehicles is entitled to a credit against the taxpayer's tax liability in the taxable year in which the qualified investment is placed in service.

(c) The amount of the credit is equal to the lesser of the following:

(1) The amount of the taxpayer's qualified investment.

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(2) Ten thousand dollars (\$10,000) for all qualified investments made by all taxpayers in all taxable years at a single location.

(3) The amount of the credit awarded by the corporation.

(d) The corporation shall carry out a program to award credits provided by this section to eligible taxpayers, including pass through entities.

(e) A credit granted under this section does not reduce the basis of the qualified property for the purposes of determining any gain or loss on the property when the taxpayer disposes of the property.

SECTION 13. IC 6-3.1-28-10, AS AMENDED BY P.L.191-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: Sec. 10. To receive the credit provided by this chapter, a taxpayer must do the following:

(1) Claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.

(2) Provide a copy of the corporation's certificate finding:

(A) that the taxpayer; or

(B) if the taxpayer is a shareholder, partner, or member of a pass through entity, that the pass through entity;

is eligible for the credit under IC 5-28-6-3 or **section 7.5 of this chapter, as appropriate.**

(3) Submit to the department proof of all information that the department determines is necessary for the calculation of the credit provided by this chapter.

The department may require a pass through entity to provide informational reports that the department determines necessary for the department to calculate the percentage of the credit provided by this chapter to which a shareholder, partner, or member of the pass through entity is entitled.

SECTION 14. IC 6-3.1-28-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]: **Sec. 12. (a) The definitions in section 7.5 of this chapter apply throughout this section.**

(b) A taxpayer that received a tax benefit from a credit under section 7.5 of this chapter (including a shareholder, partner, or member of a pass through entity) is liable for a recapture tax if the qualified investment that is the basis for the credit is converted to any use, other than to dispense E85 base fuel into the fuel tanks of motor vehicles at the location where the qualified investment was initially placed in service, within three (3) taxable years after the

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end of the taxable year in which the qualified investment was placed in service. The recapture tax equals the following:

(1) Seventy-five percent (75%) of the tax benefit received by the taxpayer if the use is converted not later than one (1) taxable year after the end of the taxable year in which the qualified investment was placed in service.

(2) Fifty percent (50%) of the tax benefit received by the taxpayer if the use is converted later than one (1) but not later than two (2) taxable years after the end of the taxable year in which the qualified investment was placed in service.

(3) Twenty-five percent (25%) of the tax benefit received by the taxpayer if the use is converted later than (2) but not later than three (3) taxable years after the end of the taxable year in which the qualified investment was placed in service.

In addition, the department shall disallow any unused credit that the taxpayer has not applied to the taxpayer's tax liability.

(c) A recapture tax under this section shall be treated as a listed tax.

(d) A taxpayer shall report a recapture tax liability in the manner, on the schedule, and in the form prescribed by the department.

SECTION 15. IC 6-6-1.1-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)]:
Sec. 103. As used in this chapter:

(a) "Administrator" means the administrative head of the department of state revenue or the administrator's designee.

(b) "Dealer" means a person, except a distributor, engaged in the business of selling gasoline in Indiana.

(c) "Department" means the department of state revenue.

(d) "Distributor" means a person who first receives gasoline in Indiana. However, "distributor" does not include the United States or any of its agencies unless their inclusion is permitted under the Constitution and laws of the United States.

(e) "Licensed distributor" means a person holding a valid distributor's license issued by the administrator.

(f) "Marine facility" means a marina or boat livery.

(g) "Gasoline" means:

(1) all products commonly or commercially known or sold as gasoline, including casinghead and absorption or natural gasoline, regardless of their classifications or uses; and

(2) any liquid, which when subjected to distillation of gasoline, naphtha, kerosene, and similar petroleum products

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with American Society for Testing Materials Designation D-86, shows not less than ten percent (10%) distilled (recovered) below three hundred forty-seven degrees Fahrenheit (347 degrees F) or one hundred seventy-five degrees Centigrade (175 degrees C), and not less than ninety-five percent (95%) distilled (recovered) below four hundred sixty-four degrees Fahrenheit (464 degrees F) or two hundred forty degrees Centigrade (240 degrees C).

However, the term "gasoline" does not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit (60 degrees F) or sixteen degrees Centigrade (16 degrees C), and a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute, or denatured, wood, or ethyl alcohol, ether, turpentine, or acetates, unless such product is used as an additive in the manufacture, compounding, or blending of a liquid within subdivision (2) **or is otherwise blended with a liquid described in subdivision (2) (including ethanol used in E85 base fuel or another ethanol base fuel meeting the specifications of 40 CFR 79.55)**, in which event only the quantity so used is considered gasoline. In addition, "gasoline" does not include those liquids which meet the specifications of subdivision (2) but which are especially designated for use other than as a fuel for internal combustion engines.

(h) "Motor vehicle" means a vehicle, except a vehicle operated on rails, which is propelled by an internal combustion engine or motor and is designed to permit its mobile use on public highways.

(i) "Person" means a natural person, partnership, firm, association, corporation, limited liability company, representative appointed by a court, or the state or its political subdivisions.

(j) "Public highway" means the entire width between boundary lines of every publicly maintained way in Indiana including streets and alleys in cities and towns when any part of the way is open to public use for vehicle travel.

(k) "Taxable marine facility" means a marine facility located on an Indiana lake.

(l) "Taxicab" means a motor vehicle which is:

(1) designed to carry not more than seven (7) individuals, including the driver;

(2) held out to the public for hire at a fare regulated by municipal ordinance and based upon length of trips or time consumed;

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- 1 (3) not operated over a definite route; and
 2 (4) a part of a commercial enterprise in the business of
 3 providing taxicab service.
 4 (m) "Terminal" means a marine or pipeline gasoline facility.
 5 (n) "Metered pump" means a stationary pump having a meter that
 6 is capable of measuring the amount of gasoline dispensed through
 7 it.
 8 (o) "Billed gallons" means the gallons indicated on an invoice for
 9 payment to a supplier.
 10 (p) "Export" for gasoline and fuels taxed in the same manner as
 11 gasoline under the origin state's statutes means the sale for export
 12 and delivery out of a state by or for the seller that is:
 13 (1) an export by the seller in the origin state; and
 14 (2) an import by the seller in the destination state.
 15 (q) "Import" for gasoline and fuels taxed in the same manner as
 16 gasoline under the origin state's statutes means the purchase for
 17 export and transportation out of a state by or for the purchaser that
 18 is:
 19 (1) an export by the purchaser in the origin state; and
 20 (2) an import by the purchaser in the destination state.
 21 (r) "Rack" means a dock, platform, or open bay:
 22 (1) located at a refinery or terminal; and
 23 (2) having a system of metered pipes and hoses to load fuel
 24 into a tank wagon or tank transport.
 25 **(s) "E85 base fuel" means a fuel (as defined in 40 CFR 79.2)**
 26 **that meets the specifications in 40 CFR 79.55 for the ethanol**
 27 **base fuel E85.**
 28 SECTION 16. [EFFECTIVE JANUARY 1, 2006
 29 (RETROACTIVE)] **(a) IC 6-1.1-12-29, as amended by this act,**
 30 **applies to property taxes first due and payable after December 31,**
 31 **2006.**
 32 **(b) IC 6-2.3-5.5, as added by this act, and IC 6-3.1-27 and**
 33 **IC 6-3.1-28, both as amended by this act, apply to taxable years**
 34 **beginning after December 31, 2005.**
 35 **(c) IC 6-3.1-27-9.5, as amended by this act, applies to taxable**
 36 **years beginning after December 31, 2004.**
 37 SECTION 17. **An emergency is declared for this act.**

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